

APPRAISAL REVIEW REPORT  
Proposed Land Banking Sale No.77  
All of Sec. 36, T13N-R12W  
By Helmville, Powell County, Montana  
August 29, 2006

Prepared for:  
State of Montana  
Department of Natural Resources and Conservation  
Trust Land Management Division  
Real Estate Management Bureau  
1625 11<sup>th</sup> Avenue  
Helena, MT 59620

Prepared by:  
Thomas J. Konency, Appraiser  
State of Montana  
Department of Natural Resources and Conservation  
Trust Land Management Division  
Real Estate Management Bureau  
1625 11<sup>th</sup> Avenue  
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**Client & Intended Users of Review:**

The client is the State of Montana, Department of Natural Resources and Conservation, Trust Land Management Division, Real Estate Management Bureau. Intended users are the DNRC Real Estate Management Bureau and the Southwest Land Office.

**Intended Use and Purpose of Review and Appraiser Reviewed:**

The intended use is to provide DNRC with information to make an administrative determination of the minimum bid price for the auction sale of a parcel of State Trust Land located in Powell County. The appraisal under review was submitted by Mr. Paraic David Neibergs, of Norman C. Wheeler & Associates, Missoula, MT.

**Owner of Record , Subject Property Legal Description, Location & Acreage:**

The current owner is the State of Montana. The subject property is approximately 640 acres, described as: All of Section 36, T13N-R12W, Powell County, Montana. Although the subject consists of predominately open grassland and sagebrush, it does have some diversity relative to its topography and does include some wet drainages and scattered timber. Overall elevation varies from about 2,780 feet to 3,300 feet. The views on the subject properties are “average”. The subjects’ legal descriptions, locations and acreages are as follows:

**Date of Appraisal, Estate Appraised & Date of Review:**

The effective date of the appraisal is March 21, 2006 with an appraisal report date of April 7, 2006. The subject property was appraised in fee simple interest. The effective date of the review is August 29, 2006.

**Purpose, Function, Client and Intended User and Intended Use Of Appraisal:**

Per the appraiser, the purpose of the analysis is to provide an opinion of market value for the subject property. Per the appraiser, the function of the appraisal is to establish the market value of the real property interests, with the valuation to be used in conjunction with selling the property in accordance with the DNRC Land Banking program. The appraiser states the client is Mr. David Jackson, attorney and representative of Meyer Ranch Company. The appraiser states the intender users are Mr. David Jackson, Mr. James Hasty of Meyer Properties, and the State of Montana DNRC. Per the appraiser, the intended use is to estimate market value of the identified real estate ownership rights.

**Estimate of Value:**

The appraiser provides two opinions of current market value for the subject property. One value is without legal access, (as-is), and one value is with legal access, (hypothetical condition).

Without Legal Access (as-is): \$208,000

With Legal Access (hypothetical condition): \$352,000

**Scope of the Review:**

The reviewer will be reviewing and making an opinion of the quality of the appraisal, along with developing his own opinions of the appraiser's opinions of estimated market values. The reviewer's valuation opinions will be limited to an orientation prospective of the appraiser's separate estimates, i.e., "the appraiser's estimate of value appears high, low, appropriate, or unsupported", etc. The reviewer's opinions of appraisal quality and the appraiser's opinions of estimated market values will be based mostly on the material submitted in the report. However, this reviewer will also use this reviewer's familiarity with the subject property and other market information. In the development of this reviewer's opinion of the appraiser's opinions of estimated market values, an extraordinary assumption has been made that most of the information on the "numbered" comparable sales submitted in the appraiser's report is generally credible.

**Highest and Best Use:**

The appraiser states that the subject property's Highest and Best Use with legal access is rural recreational investment with a complementary use for agricultural grazing. The appraiser states that the subject property's Highest and Best Use without legal access is for assemblage and plottage to a neighboring owner, although, there is also an element of speculation in which a non-adjacent owner may purchase the property as well. This reviewer concurs with the appraiser's Highest and Best Use determination with access; however the second determination appears a little cloudy. This reviewer assumes the appraiser is indicating an agricultural use, predominately grazing, which this reviewer would again concur with.

**Subject Property Data & Analysis Summary:**

The appraiser has provided information on, and done an analysis of, the subject property, neighborhood and market in general. The appraiser states he has made a hypothetical condition concerning legal access for part of his analysis. That is, he has provided two estimates of value, one with the hypothetical condition of legal access and one of the subject "as is" without legal access as the subject currently exists.

**Valuation Summary:**

The appraiser considered the Sales Comparison Approach to be the only applicable guide to value of the land, and this reviewer concurs. For the valuation of the subject property with legal access, the appraiser has done a search of the subject's market area for comparables, provided a description of the sales and an analysis of the information. For the valuation of the subject property without legal access, the appraiser states he will pair sales with and without access to determine effect on value and will then quantify that effect. The appraiser states he has used market data from surrounding markets. The appraiser has submitted limited data in both the report and addenda on these "pairings". This reviewer refers the reader to the actual report for a more detailed explanation of the information and analysis.

For informational purposes, USPAP defines a Hypothetical Condition as: that which is contrary to what exists but is supposed for the purpose of analysis.

### **Appraisal Review Comments:**

In order to fully understand the following comments the reader may have to refer to the appraisal report. This reviewer finds the appraisal procedure and report to be of generally acceptable quality overall, with the following exceptions:

1). The State of Montana does not have legal access to the subject property across neighboring lands. Under the Land Banking program, all isolated properties are appraised, and may be offered for sale by the Board of Land Commissioners, with a hypothetical condition of having legal access. The appraiser suggests that legal access is one of the “bundles of rights” that is enjoyed by the owner of “real property”. Per The Dictionary of Real Estate Appraisal, Third Edition, by the Appraisal Institute, the “bundle of rights theory” is “The concept that compares property ownership to a bundle of sticks with each stick representing a distinct and separate right of the property owner, e.g., the right to use real estate, to sell it, to lease it, to give it away, or to choose to exercise all or none of these rights”. The Appraisal of Real Estate, Eleventh Edition, by the Appraisal Institute, adds the following: “Real property includes all interests, benefits, and rights inherent in the ownership of physical real estate.” “Ownership rights include the right to use real estate, to sell it, to enter it, to give it away, or to choose to exercise all or none of these rights.” The appraiser appears to suggest that the State lacks the legal right to enter the property. The Department would argue that currently there is only no legal right to cross neighboring lands and would further argue, that the state has, for example, the right to fly into the property to exercise their right of entry. Thus, once on the property, the State can still use the property. The State can still retain the property, or sell the property. The State can still let others use the property through lease or easement or other means. The State can also deny use of the property to others. Access may affect ease of use or maybe usefulness, but nevertheless, the ownership rights themselves have not been diminished. The ownership rights are all still there. Therefore, the scope of work that requires the valuation of the property with full legal access as a hypothetical condition is well supported.

2). In the valuation analysis of the subject property with the hypothetical condition of legal access, five comparable sales were examined. While the analysis seems generally reasonable for the comparable sales used, there is the question of, if Comparable Sale No. 5 is in a weaker market by Garrison, how is the market east of Hall where Comparable Sale No. 3 is located? Also, there is no consideration given for another sale mentioned in the “Time pairings” section of the report. This is a September 2004 sale of 480 acres in Kleinschmidt Flats with a sale price of \$833 an acre. The appraiser further mentioned this K. Flats sale was not well exposed and the tract had limited appeal. It appears this K. Flats sale should also be considered in the overall valuation of the subject not just in the “Time pairings”. Moreover, this sale indicates that maybe Comparable Sale No.1, which was between two area ranchers and sold for \$600 an acre, was not at full market price. Maybe it wasn’t a true arms-length transaction or possibly there wasn’t enough market exposure also. More information and analysis is required.

**Appraisal Review Comments continued:**

3). In the valuation of the subject property as-is, without legal access, the appraiser states he does an analysis using pairing of sales. Per The Dictionary of Real Estate Appraisal, Third Edition, by the Appraisal Institute, paired data analysis is “A quantitative technique used to identify and measure adjustments to the sale prices or rents of comparable properties; to apply this technique, sales or rental data on nearly identical properties are analyzed to isolate a single characteristic’s effect on value or rent.” However, much of the information presented does not actually pair nearly identical properties, thus does not follow the technique nor support the conclusions sufficiently. Some of the sales pairings presented are quite dated, and use in a changing/moderately strong market is questionable. Other sales are not truly comparable and the relevance of the pairing result is then dubious. As the appraiser states, very minimal information is provided in this as-is analysis, therefore the findings are not supported.

4). The appraiser did not address if he found any sales of properties both without legal access and without a reduction in value due to the lack of legal access.

**Conclusion of Land Value:**

It is this reviewer’s opinion that the appraiser’s opinion of estimated market value for the subject property with the hypothetical condition of legal access is not sufficiently supported and thus may be slightly low. However, without more sales information on the comparables used by the appraiser and more explanation of why other sale was not used, no further opinion of this reported value is rendered.

This reviewer finds that the appraiser’s opinion of estimated market value for the subject property in its “as is” condition of no legal access lacks enough appropriate support and thus renders the value reported contentious. The appraiser has provided some information on a general and mostly historical basis, but no strong evidence, based on fairly current comparable sales in the subject’s market area, has been presented. And again, the appraiser did not address if any sales of properties without legal access, which did not show a reduction in value, were found. Moreover, since the date of the report, the State of Montana has recently sold 25 parcels, mostly sections of native range land, without legal access. Although located in market areas which do not appear to be as strong as the subject’s, these parcels sold with sales prices reflective of appraised values based on the hypothetical condition of legal access. It is unknown if these sales are indicative of changes in the markets and representative of the overall pressures of demand on land. Regardless, these sales seem to directly counter much of the evidence the appraiser has submitted in his as-is analysis. Therefore, based on the material submitted in the appraisal report and additional information which was not known by the appraiser, it is this reviewer’s opinion the appraiser’s opinion of estimated market value of the subject property in an “as is” condition of no legal access, is not supported. This reviewer’s “as is” value opinion, which is partially based on information not known by the appraiser, is not to be considered a judgment of the appraiser’s work.

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Thomas J. Konency, Montana DNRC TLMD Appraiser

Dated: August 29, 2006

## **REVIEW REPORT ASSUMPTIONS AND LIMITING CONDITIONS**

The certification of the review appraiser appearing in the appraisal review report is subject to the following conditions and to such other specific and limiting conditions as set forth in the review report.

1. The review appraiser will not be responsible for matters of a legal nature affecting either the report being reviewed, the property being appraised or the title to it. Except for information that was provided or uncovered during the research involved in performing the appraisal review and ordinarily employed by real estate appraisers, no opinion is intended to be expressed for legal matters or that would require specialized knowledge or investigation. The review appraiser assumes that the title is good and marketable, ("free and clear"), and, therefore, will not render any opinions about the title. Unless otherwise mentioned in this review report, the property is appraised as if owned in fee simple title without encumbrances and on the basis of it being under responsible ownership and/or competent management.
2. The review appraiser assumes that the legal descriptions furnished are correct and the review appraiser has not surveyed the property. Acreage of land types and measurements of improvements are based on physical inspection of the property or information provided unless otherwise noted in the review report. Sketches or drawings in this review report are included to assist the reader in visualizing the property. They are not to be considered a legal survey or engineer's plan of any kind. Any and all other sketches, drawings, maps, etc., are also provided for informational purposes only and are not for any legal reference. Access has been investigated only to the satisfaction of the review appraiser. No assurance of legal access, or lack of, is expressed or implied as a legal opinion. The same is true of encroachment and trespass issues.
3. The review appraiser has noted in the appraisal review report any adverse conditions, (such as, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, flood planes, etc), observed during the routine inspection of the subject property, and/or adjacent properties, or that was discovered during the normal research involved in performing the appraisal review. Unless otherwise stated in this review report, the review appraiser has no knowledge of any hidden or unapparent conditions of the property, and/or adjacent properties, or adverse environmental conditions, (including, but not limited to, the presence of hazardous wastes, toxic substances, etc), that would make the property less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The review appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the review appraiser is not an expert in the field of environmental hazards, the appraisal review report must not be considered as an environmental assessment of the property. Concerns about soil conditions, actual condition of improvements or systems, or property conformity to zoning, building, fire, ADA, and other such applicable laws, regulations, rules and codes, should all be referred to the proper experts.

4. The review appraiser is not an expert in minerals, mineral rights, timber, timber volumes, crops, farm programs or water requirements and rights. Unless otherwise noted, only surface rights will be appraised or reviewed with no value specifically allotted to the mineral rights or deposits. Timber values, if considered a part of the review report, will rely on proper experts, as will farm programs. Typically, growing crops are not considered in the review report. Usually it is assumed the water rights have been secured or perfected, with their value generally considered an inherent part of the land value, with any deviation from this to be included in the review report. Rental and lease agreements, conservation plans, options and other situations may also require reliance on proper experts.
5. The review appraiser has obtained information, opinions, estimates, surveys, plans, maps and information on regulations, restrictions and studies, etc., from various sources including the property owner, agent, or manager, as well as from real estate professionals, government agencies, appraisers and other sources. Unless otherwise noted, the sources are considered reliable and the information is complete and correct. However, the review appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
6. The review appraiser assumes no responsibility or liability for future conditions, about which information was not supplied or readily available or was not public knowledge at the time the appraisal review is made, nor for the effect of events, which might concern the value of the subject property subsequent to date of appraisal review. Montana is a non-disclosure state and as such sales prices of real estate are not publicly recorded. Therefore, with few consolidated sources of sales information existing, and no obligation to release or verify information by many of the parties associated with the transactions, sales of comparable properties may not be known by this review appraiser, and absolute verification of the sales found may not be possible.
7. If the Departure Rule was invoked, then it will be noted in the review report. All extraordinary assumptions and hypothetical conditions, including, but not limited to, satisfactory completion and repairs or alterations, will be noted in the appraisal review report. It is assumed there will be consistency with all the plans, estimates, specifications, planned work, projections, or requirements, initially provided. Deviation from those items may affect the value reported. Great effort has been taken to eliminate all error in identifying, developing and processing the review report. However, if errors or omissions are found, they will have to be reviewed to see if they will affect the opinion of value reported.
8. The review appraiser will not disclose the contents of this appraisal review report except as provided for in the Uniform Standards of Professional Appraisal Practice, and/or applicable federal, state, or local laws, rules or regulations. The review appraiser is not obligated to/by any unauthorized use of this review report by third parties or the “extraction” of only parts of the review report and attempting to apply those parts in any other process or to reach a conclusion.
9. It is assumed that there has not been any significant change, physical or otherwise, to the subject property between the inspection date and date the review report is signed.

**REVIEW APPRAISER'S CERTIFICATION: This review appraiser certifies and agrees that:**

1. I have no present or prospective interest in the property that is the subject of this report and review, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or opinion of market value in the appraisal review report on the race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.
2. My employment and/or compensation for performing this appraisal review or any future or anticipated appraisal reviews was not conditioned on any agreement or understanding, written or otherwise, that I would report (or develop or present any analysis, opinions or conclusions supporting) a predetermined specific value, a predetermined minimum or maximum value, a range or direction in value, a value that favors the cause of any party, or the attainment of a specific result or occurrence of a specific event or action, or the subsequent event directly related to the use of this appraisal review report.
3. I have taken into consideration the factors that have an impact on value in the development of my opinion of market value for the subject property. I have noted in the appraisal review report any adverse conditions, (such as, but not limited to, needed repairs, depreciation, the presence of hazardous materials, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing the appraisal review. I have considered these adverse conditions in my analysis of the property value to the extent that I had market evidence to support them, and have commented about the effect of the conditions on the marketability of the subject property.
4. I have not knowingly withheld any significant information from the appraisal review report that would have an impact on value and I believe, to the best of my knowledge, that all statements and information in the appraisal review report are true and correct. I have stated in this appraisal review report only my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the limiting conditions specified in this appraisal review report.
5. To the best of my knowledge, I have preformed this appraisal review in conformity with the Uniform Standards of Professional Appraisal Practice. I have personally analyzed and prepared all the conclusions and opinions about the real estate that are set forth in this appraisal review report. If I have relied on significant real property appraisal or review assistance from any individual(s) in the performance of the appraisal review or preparation of the appraisal review report, I have named such individual(s) and disclosed the specific tasks preformed in the appraisal review report. I certify that any individual(s) so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in the appraisal review report; therefore, any change made to the appraisal review is unauthorized and I take no responsibility for it.

Dated: August 29, 2006

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Thomas J. Konency, Montana DNRC TLMD Appraiser